

The Honorable David G. Estudillo

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

GABRIELLA SULLIVAN, et al.,

Plaintiffs,

v.

BOB FERGUSON, in his official capacity
as Washington State Attorney General, et
al.,

Defendants.

NO. 3:22-cv-05403-DGE

DEFENDANTS BOB FERGUSON AND
JOHN R. BATISTE'S ANSWER TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
AND AFFIRMATIVE DEFENSES

Defendants Bob Ferguson, in his official capacity as Washington State Attorney General, and John R. Batiste, in his official capacity as Chief of the Washington State Patrol (State Defendants), answer Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief (Complaint). Except as expressly admitted or qualified, State Defendants deny each and every allegation, statement, or charge contained in the Complaint, and deny that Plaintiffs are entitled to any of the relief requested. State Defendants deny Plaintiffs' characterization of the State's laws and regulations to the extent such characterization is inconsistent with the State's laws and regulations, which speak for themselves. State Defendants further deny that Plaintiffs are entitled to the requested relief set forth in the introductory paragraph, or any relief. Plaintiffs' First Amended Complaint contains headings that are not specifically responded to herein. To the extent Plaintiffs' headings contain allegations to which a response is required, they are denied. State Defendants

answer the numbered paragraphs of Plaintiffs' Complaint as follows:

I. INTRODUCTION

1. State Defendants deny that the State has "criminalized one of the most common and important means by which its citizens can exercise their fundamental right of self-defense." The remainder of Paragraph 1 asserts a legal conclusion that requires no response. To the extent a response is required, it is denied.

2. To the extent Paragraph 2 asserts a legal conclusion, it requires no response. To the extent a response is required, State Defendants deny Paragraph 2.

3. State Defendants deny Paragraph 3.

4. To the extent Paragraph 4 asserts a legal conclusion, it requires no response. To the extent a response is required, State Defendants deny Paragraph 4.

5. Paragraph 5 is Plaintiffs' characterization of the relief they seek and their legal arguments to which no answer is required. The case law cited in this paragraph speaks for itself and likewise requires no response. To the extent a response is required, State Defendants deny Paragraph 5.

6. To the extent Paragraph 6 asserts a legal conclusion, it requires no response. The case law cited in Paragraph 6 speaks for itself and likewise requires no response. To the extent a response is required, State Defendants deny Paragraph 6.

7. Paragraph 7 is Plaintiffs' characterization of the relief they seek and their legal arguments to which no answer is required. To the extent a response is required, it is denied.

II. JURISDICTION AND VENUE

8. Paragraph 8 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

9. Paragraph 9 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

1 asserts legal conclusions that require no response. To the extent a response is required, it is
2 denied.

3 18. State Defendants admit that the Complaint names Patti Cole-Tindall, in her
4 official capacity as Interim Sheriff for King County, as a Defendant. The remainder of Paragraph
5 18 asserts legal conclusions that require no response. To the extent a response is required the
6 cited state laws speak for themselves.

7 19. State Defendants admit that the Complaint names John Gese, in his official
8 capacity as Sheriff for Kitsap County, as a Defendant. The remainder of Paragraph 19 asserts
9 legal conclusions that require no response. To the extent a response is required, it is denied.

10 20. State Defendants admit that the Complaint names Rick Scott, in his official
11 capacity as Sheriff for Grays Harbor County, as a Defendant. The remainder of Paragraph 20
12 asserts legal conclusions that require no response. To the extent a response is required, it is
13 denied.

14 21. State Defendants admit that the Complaint names Dan Satterberg, in his official
15 capacity as County Prosecutor for King County, as a Defendant. The remainder of Paragraph 21
16 asserts legal conclusions that require no response. To the extent a response is required, it is
17 denied.

18 22. State Defendants admit that the Complaint names Chad M. Enright, in his official
19 capacity as County Prosecutor for Kitsap County, as a Defendant. The remainder of Paragraph
20 22 asserts legal conclusions that require no response. To the extent a response is required, it is
21 denied.

22 23. State Defendants admit that the Complaint names Norma Tollitson, in her official
23 capacity as County Prosecutor for Grays Harbor County, as a Defendant. The remainder of
24 Paragraph 23 asserts legal conclusions that require no response. To the extent a response is
25 required, it is denied.
26

IV. FACTUAL ALLEGATIONS

24. State Defendants admit that Governor Jay Inslee signed Engrossed Substitute Senate Bill 5078 (ESSB 5078). State Defendants admit that Paragraph 24 partially accurately quotes portions of ESSB 5078, which speaks for itself. Paragraph 24 is otherwise denied.

25. State Defendants admit that Paragraph 25 partially accurately quotes portions of ESSB 5078, which speaks for itself. Paragraph 25 is otherwise denied.

26. Paragraph 26 asserts argument and legal conclusions that require no response, as ESSB 5078 speaks for itself. Paragraph 26 is otherwise denied.

27. Paragraph 27 asserts argument and legal conclusions that require no response, as ESSB 5078 speaks for itself. Paragraph 27 is otherwise denied.

28. State Defendants admit that ESSB 5078 establishes a gross misdemeanor punishable under Chapter 9A.20 Wash. Rev. Code. Paragraph 28 is otherwise denied.

29. State Defendants admit that the effective date of ESSB 5078 is July 1, 2022.

30. Paragraph 30 asserts argument and legal conclusions that require no response, as ESSB 5078 speaks for itself. Paragraph 30 is otherwise denied.

31. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and, therefore, deny the same.

32. The document cited in Paragraph 32 speaks for itself, and Plaintiffs' characterizations of the information in the document require no response. To the extent a response is required, Paragraph 32 is denied.

33. Plaintiffs' argumentative characterizations of the alleged facts in Paragraph 33 require no response. To the extent a response is required, Paragraph 33 is denied.

34. Plaintiffs' argumentative characterizations of the alleged facts in Paragraph 34 require no response. To the extent a response is required, Paragraph 34 is denied.

35. Paragraph 35 asserts argument and legal conclusions that require no response,

1 and the referenced document speaks for itself. To the extent a response is required, Paragraph
2 35 is denied.

3 36. The document cited in Paragraph 36 speaks for itself, and Plaintiffs'
4 characterizations of the information in the document require no response. To the extent a
5 response is required, Paragraph 36 is denied.

6 37. The documents cited in Paragraph 37 speak for themselves, and Plaintiffs'
7 characterizations of the information in the documents require no response. To the extent a
8 response is required, Paragraph 37 is denied.

9 38. Paragraph 38 asserts argument and legal conclusions that require no response. To
10 the extent a response is required, Paragraph 38 is denied.

11 39. The document cited in Paragraph 39 speaks for itself, and Plaintiffs'
12 characterizations of the information in the document require no response. To the extent a
13 response is required, Paragraph 39 is denied.

14 40. The documents cited in Paragraph 40 speak for themselves, and Plaintiffs'
15 characterizations of the information in the documents require no response. To the extent a
16 response is required, Paragraph 40 is denied.

17 41. The documents cited in Paragraph 41 speak for themselves, and Plaintiffs'
18 characterizations of the information in the documents require no response. To the extent a
19 response is required, Paragraph 41 is denied.

20 42. The document cited in Paragraph 42 speaks for itself, and Plaintiffs'
21 characterizations of the information in the document require no response. To the extent a
22 response is required, Paragraph 42 is denied.

23 43. The documents cited in Paragraph 43 speak for themselves, and Plaintiffs'
24 characterizations of the information in the documents require no response. To the extent a
25 response is required, Paragraph 43 is denied.
26

1 44. The document cited in Paragraph 44 speaks for itself, and Plaintiffs'
 2 characterizations of the information in the document require no response. Paragraph 44 also
 3 asserts argument and legal conclusions that require no response. To the extent a response is
 4 required, Paragraph 44 is denied.

5 45. The document cited in Paragraph 45 speaks for itself, and Plaintiffs'
 6 characterizations of the information in the document require no response. Paragraph 45 also
 7 asserts argument and legal conclusions that require no response. To the extent a response is
 8 required, Paragraph 45 is denied.

9 46. The document cited in Paragraph 46 speaks for itself, and Plaintiffs'
 10 characterizations of the information in the document require no response. To the extent a
 11 response is required, Paragraph 46 is denied.

12 47. The document cited in Paragraph 47 speaks for itself, and Plaintiffs'
 13 characterizations of the information in the document require no response. To the extent a
 14 response is required, Paragraph 47 is denied.

15 48. The documents cited in Paragraph 48 speak for themselves, and Plaintiffs'
 16 characterizations of the information in the documents require no response. Paragraph 48 also
 17 asserts argument and legal conclusions that require no response. To the extent a response is
 18 required, Paragraph 48 is denied.

19 49. This paragraph asserts argument, speculation, and legal conclusions that require
 20 no response. To the extent a response is required, Paragraph 49 is denied.

21 50. The document cited in Paragraph 50 speaks for itself, and Plaintiffs'
 22 characterizations of the information in the documents require no response. Paragraph 50 also
 23 asserts argument and legal conclusions that require no response. To the extent a response is
 24 required, Paragraph 50 is denied.

25 51. Paragraph 51 asserts argument, speculation, and legal conclusions that require no
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1 response. To the extent a response is required, Paragraph 51 is denied.

2 **V. STATEMENT OF FACTS RELATING TO GABRIELLA SULLIVAN**

3 52. Paragraph 52 requires no response.

4 53. State Defendants are without knowledge or information sufficient to form a belief
5 as to the truth of the allegations and, therefore, deny the same.

6 54. State Defendants are without knowledge or information sufficient to form a belief
7 as to the truth of the allegations and, therefore, deny the same.

8 55. State Defendants are without knowledge or information sufficient to form a belief
9 as to the truth of the allegations and, therefore, deny the same.

10 56. State Defendants are without knowledge or information sufficient to form a belief
11 as to the truth of the allegations and, therefore, deny the same.

12 57. State Defendants are without knowledge or information sufficient to form a belief
13 as to the truth of the allegations and, therefore, deny the same.

14 58. State Defendants are without knowledge or information sufficient to form a belief
15 as to the truth of the allegations and, therefore, deny the same.

16 59. Paragraph 59 asserts argument and legal conclusions that require no response, as
17 ESSB 5078 speaks for itself. State Defendants are otherwise without knowledge or information
18 sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

19 **VI. STATEMENT OF FACTS RELATED TO RAINIER ARMS, LLC**

20 60. Paragraph 60 requires no response.

21 61. State Defendants admit that Secretary of State records indicate that Rainier Arms,
22 LLC, is a limited liability corporation with a principal office address in
23 King County, Washington. State Defendants are without knowledge or information sufficient to
24 form a belief as to the truth of the remaining allegations and, therefore, deny the same.

62. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

63. Paragraph 63 asserts argument and legal conclusions that require no response, as ESSB 5078 speaks for itself. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and, therefore, deny the same.

64. Paragraph 64 asserts argument and legal conclusions that require no response. To the extent a response is required, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

VII. STATEMENT OF FACTS RELATED TO DANIEL MARTIN

65. Paragraph 65 requires no response.

66. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

67. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

68. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

69. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

70. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

71. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

72. Paragraph 72 asserts argument and legal conclusions that require no response, as ESSB 5078 speaks for itself. State Defendants are otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

VIII. COUNT ONE

73. Paragraph 73 requires no response.

74. State Defendants admit that the text of the Second Amendment is accurately quoted.

75. Paragraph 75 states a legal conclusion that requires no response, as the cited cases speak for themselves. To the extent a response is required, Paragraph 75 is denied.

76. Paragraph 76 states a legal conclusion that requires no response, as the cited cases speak for themselves. To the extent a response is required, Paragraph 76 is denied.

77. The first sentence of Paragraph 77 asserts a legal conclusion to which no answer is required. To the extent a response is required, State Defendants deny the same. The State Defendants admit that Paragraph 77 accurately quotes language from *Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014), which speaks for itself.

78. Paragraph 78 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

79. Paragraph 79 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

80. Paragraph 80 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

IX. PRAYER FOR RELIEF

This section of the Complaint assert Plaintiffs' requests for relief, to which no response is required. To the extent a response is required, State Defendants deny Plaintiffs are entitled to the relief requested, or any relief.

X. AFFIRMATIVE DEFENSES

State Defendants' affirmative defenses to the Complaint are set forth below. By setting forth the following allegations and defenses, State Defendants do not assume the burden of proof

1 on any matter or issue other than those on which they have the burden of proof as a matter of
2 law.

3 1. Officials sued in their official capacity acting on behalf of the State are immune
4 from suit.

5 2. This Court lacks subject matter jurisdiction.

6 3. Plaintiffs lack standing to sue either individually or on behalf of others.

7 4. Plaintiffs' claims are not ripe.

8 5. Plaintiffs have failed to state a claim upon which relief can be granted.

9 6. Plaintiffs have failed to effect proper service of process.

10 Defendants reserve the right to assert additional defenses and affirmative defenses as
11 established by the facts of this case. The Defendant also adopts and incorporates by reference
12 any and all other defenses asserted by any other defendant in this matter to the extent the
13 Defendants may share in such defense.

14 WHEREFORE, having fully answered Plaintiffs' Complaint and having asserted
15 defenses and affirmative defenses, State Defendants respectfully request that Plaintiffs'
16 requested relief be denied, that Plaintiffs' Complaint be dismissed with prejudice, that the State
17 Defendants be awarded costs and reasonable attorney fees as may be provided by statute or other
18 law, and that the Court award such other relief as the Court deems just and equitable.

19 DATED this 14th day of July 2022.

20 ROBERT W. FERGUSON
21 Attorney General

22 /s/ R. July Simpson

23 R. JULY SIMPSON, WSBA #45869
24 WILLIAM MCGINTY, WSBA #41868
25 ANDREW HUGHES, WSBA #49515
26 BRIAN HUNT ROWE, WSBA #56817
Assistant Attorneys General
JEFFREY T. EVEN, WSBA #20367
Deputy Solicitor General

1 KRISTIN BENESKI, WSBA #45478
2 First Assistant Attorney General
3 July.Simpson@atg.wa.gov
4 William.McGinty@atg.wa.gov
5 Andrew.Hughes@atg.wa.gov
6 Brian.Rowe@atg.wa.gov
7 Jeffrey.Even@atg.wa.gov
8 Kristin.Beneski@atg.wa.gov
9 *Attorneys for Defendants Bob Ferguson*
10 *and John R. Batiste*
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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will send notification of such filing to all counsel of record.

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED this 14th day of July 2022, at Tacoma, Washington.

/s/ R. July Simpson

R. JULY SIMPSON, WSBA #45869
Assistant Attorney General